

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 413
TRANSGENIC AND NONNATIVE ORGANISMS

324.41301 Definitions; possession of live organism.

Sec. 41301. (1) As used in this part:

- (a) "Amphibian" means any frog, toad, or salamander of the class Amphibia.
- (b) "Aquatic", except as used in subdivision (p), describes an amphibian, crustacean, fish, mollusk, reptile, wiggler, or aquatic plant.
- (c) "Crustacean" means freshwater crayfish, shrimp, or prawn of the order Decapoda.
- (d) "Genetically engineered" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, or the progeny of such an organism.
- (e) "Introduce", with reference to an organism, means to knowingly and willfully stock, place, plant, release, or allow the release of the organism in this state at any specific location where the organism is not already naturalized.
- (f) "Mollusk" means any mollusk of the classes Bivalvia and Gastropoda.
- (g) "Native" means indigenous to any location in this state.
- (h) "Nonaquatic" describes a bird, insect other than a wiggler, or mammal.
- (i) "Nonnative" means not native.
- (j) "Permitted aquatic species" means a species listed as provided in section 41302a.
- (k) "Prohibited species", subject to section 41302, means any of the following:
 - (i) Any of the following prohibited aquatic plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:
 - (A) African oxygen weed (*Lagarosiphon major*).
 - (B) Brazilian elodea (*Egeria densa*).
 - (C) Cyllindro (*Cylindrospermopsis raciborskii*).
 - (D) European frogbit (*Hydrocharis morsus-ranae*).
 - (E) Fanwort (*Cabomba caroliniana*).
 - (F) Giant salvinia (*Salvinia molesta*, *auriculata*, *biloba*, or *herzogii*).
 - (G) Hydrilla (*Hydrilla verticillata*).
 - (H) Parrot's feather (*Myriophyllum aquaticum*).
 - (I) Starry stonewort (*Nitellopsis obtusa*).
 - (J) Water chestnut (*Trapa natans*).
 - (K) Yellow floating heart (*Nymphoides peltata*).
 - (ii) Any of the following prohibited terrestrial plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:
 - (A) Giant hogweed (*Heracleum mantegazzianum*).
 - (B) Japanese knotweed (*Fallopia japonica*).
 - (iii) The following prohibited bird species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant: Eurasian collared dove (*Streptopelia decaocto*).
 - (iv) The following prohibited crustacean species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant: rusty crayfish (*Orconectes rusticus*).
 - (v) Any of the following prohibited fish species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
 - (A) Bighead carp (*Hypophthalmichthys nobilis*).
 - (B) Bitterling (*Rhodeus sericeus*).
 - (C) Black carp (*Mylopharyngodon piceus*).
 - (D) Eurasian ruffe (*Gymnocephalus cernuus*).
 - (E) Grass carp (*Ctenopharyngodon idellus*).
 - (F) Ide (*Leuciscus idus*).
 - (G) Japanese weatherfish (*Misgurnus anguillicaudatus*).

- (H) Round goby (*Neogobius melanostomus*).
- (I) Rudd (*Scardinius erythrophthalmus*).
- (J) Silver carp (*Hypophthalmichthys molitrix*).
- (K) A fish of the snakehead family (family *Channidae*).
- (L) Tench (*Tinca tinca*).
- (M) Tubenose goby (*Proterorhinus marmoratus*).
- (vi) Any of the following prohibited insect species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
 - (A) Asian longhorned beetle (*Anoplophora glabripennis*).
 - (B) Emerald ash borer (*Agrilus planipennis*).
- (vii) The following prohibited mammal species, including a hybrid or genetically engineered variant: nutria (*Myocastor coypus*).
- (viii) Any of the following prohibited mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
 - (A) Brown garden snail (*Helix aspersa*).
 - (B) Carthusian snail (*Monacha cartusiana*).
 - (C) Giant African snail (*Achatina fulica*).
 - (D) Girdled snail (*Hygromia cinctella*).
 - (E) Heath snail (*Xerolenta obvia*).
 - (F) Wrinkled dune snail (*Candidula intersepta*).
- (l) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism.
- (m) "Relevant commission", "relevant department", or "relevant director" means the following:
 - (i) With respect to a species other than a plant or an insect, except a wiggler, the natural resources commission, department of natural resources, or the director of the department of natural resources, respectively.
 - (ii) With respect to a plant species or an insect species, other than a wiggler, the commission of agriculture and rural development, the department of agriculture and rural development, or the director of the department of agriculture and rural development, respectively.
- (n) "Reptile" means any turtle, snake, or lizard of the class Reptilia.
- (o) "Restricted species", subject to section 41302, means any of the following:
 - (i) Any of the following restricted aquatic plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant:
 - (A) Curly leaf pondweed (*Potamogeton crispus*).
 - (B) Eurasian watermilfoil (*Myriophyllum spicatum*).
 - (C) Flowering rush (*Butomus umbellatus*).
 - (D) Phragmites or common reed (*Phragmites australis*).
 - (E) Purple loosestrife (*Lythrum salicaria*), except that cultivars of purple loosestrife developed and recognized to be sterile and approved by the director of the department of agriculture and rural development under section 16a of the insect pest and plant disease act, 1931 PA 189, MCL 286.216a, are not a restricted species.
 - (ii) The following restricted terrestrial plant species, including a hybrid or genetically engineered variant of the species or a fragment, including a seed or other propagule, of the species or of a hybrid or genetically engineered variant: autumn olive (*Elaeagnus umbellata*).
 - (iii) Any of the following restricted mollusk species, including a hybrid or genetically engineered variant of the species or an egg of the species or of a hybrid or genetically engineered variant:
 - (A) Quagga mussel (*Dreissena bugensis*).
 - (B) Zebra mussel (*Dreissena polymorpha*).
- (p) "Wiggler" means an aquatic egg, nymph, or larva of an insect.
- (2) For the purposes of this part:
 - (a) A person is not considered to possess a live organism simply because the organism is present on land or in waters owned by that person unless the person has knowingly introduced that live organism on that land or in those waters.
 - (b) A person is not considered to possess a live organism if the organism was obtained from the environment and the person only possesses the organism at the specific location at which it was obtained from the environment.
 - (c) A person is not considered to possess a live organism if the possession is for the purpose of promptly

destroying the organism.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 77, Imd. Eff. July 19, 2005;—Am. 2009, Act 51, Eff. Sept. 21, 2009;—Am. 2014, Act 358, Imd. Eff. Dec. 9, 2014;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41302 Adding or deleting from list of prohibited species or restricted species; consultation; procedure; determination; review; emergency order; order setting conditions for harvesting, possessing, and transporting naturalized organism of aquatic restricted species.

Sec. 41302. (1) The relevant commission may by order add to or delete a species from the list of prohibited species or restricted species under section 41301. Before the natural resources commission issues an order under this subsection, it shall consult with the department of agriculture and rural development. Before the commission of agriculture and rural development issues an order under this subsection, it shall consult with the department of natural resources. After the consultation, and at least 30 days before the relevant commission issues the order, the relevant department shall post a copy of the proposed order on the relevant department's website and shall submit a copy of the proposed order to all of the following:

(a) The legislature.

(b) The standing committees of the senate and house of representatives with primary responsibility for any of the following:

(i) Agricultural issues.

(ii) Environmental issues.

(iii) Natural resources issues.

(2) The relevant commission shall list a nonaquatic species as a prohibited species or restricted species if the relevant commission determines the following:

(a) For a nonaquatic prohibited species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is not naturalized in this state or, if naturalized, is not widely distributed in this state.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to severely harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are not available.

(b) For a nonaquatic restricted species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is naturalized and widely distributed in this state.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are available.

(3) The relevant commission shall list an aquatic species as a prohibited species or restricted species if the relevant commission determines the following based on a review by the relevant department:

(a) For an aquatic prohibited species, all of the following requirements are met:

(i) The organism is not native or is genetically engineered.

(ii) The organism is not naturalized in this state or, if naturalized, is not widely distributed.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to severely harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are not available.

(b) For an aquatic restricted species, all of the following requirements are met:

(i) The organism is not native.

(ii) The organism is naturalized in this state.

(iii) One or more of the following apply:

(A) The organism has the potential to harm human health or to harm natural, agricultural, or silvicultural resources.

(B) Effective management or control techniques for the organism are available.

(4) The following apply to a review by the relevant department of an aquatic species for listing as a prohibited species or restricted species under subsection (3):

(a) By 1 year after the effective date of the amendatory act that added this subsection, the relevant department shall review each aquatic species listed as a prohibited species or restricted species on the effective date of the amendatory act that added this subsection.

(b) By 1 year after the effective date of the amendatory act that added this subsection, the relevant department shall review each aquatic animal listed as injurious wildlife under the Lacey act, 16 USC 3371 to 3378, and each aquatic plant designated as a noxious weed under the plant protection act, 7 USC 7701 to 7786, for listing as a prohibited species or restricted species.

(c) The relevant department shall review new listings or delistings on the federal lists identified under subdivision (b) within 180 days after the listing or delisting.

(d) The relevant department shall review each aquatic species that has the potential to harm human health or natural, agricultural, or silvicultural resources for listing as a prohibited species or restricted species even if the species is not currently on either federal list described in subdivision (b).

(e) The relevant department may review a previously unreviewed aquatic species petitioned for listing as a permitted species under section 41302a(5) for which the risk assessment process under section 41302a(2) or (3) indicated a high invasive species risk.

(f) The relevant department may review other aquatic species for listing as prohibited or restricted species.

(5) The relevant director may issue an emergency order designating an organism as a prohibited species or restricted species if the organism has the potential to harm human health or to severely harm natural, agriculture, or silvicultural resources. An emergency order is effective for not longer than 90 days. The relevant department shall do all of the following:

(a) Post a proposed emergency order on its website and otherwise publicize the proposed emergency order in a manner that ensures that interested persons are provided notice of the proposed emergency order, the reasons for the emergency order, and the proposed effective date of the order.

(b) Provide a copy of the proposed emergency order to each member of the standing committees of the senate and the house of representatives that consider legislation pertaining to conservation, the environment, recreation, tourism, or natural resources.

(c) Post the final emergency order on its website.

(6) The relevant department may issue an order setting forth the conditions under which naturalized organisms of an aquatic restricted species may be harvested, possessed, and transported.

History: Add. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41302a Permitted aquatic species list; risk assessment; protocol; failure to pass risk assessment for permitted species; compensation of person involved in commercialization or sale; adding new aquatic species to permitted species list for future commercialization and sale.

Sec. 41302a. (1) By 2 years after the effective date of this section, the department of natural resources and the department of agriculture and rural development, after consultation and notice in the same manner as required of the respective commission under section 41302(1), shall each create a permitted species list for aquatic species for which it is the relevant department. Together, these lists compose the permitted aquatic species list. The initial permitted aquatic species list shall consist of all of the following:

(a) All species on the list of approved species for aquaculture under section 5 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.875, on the effective date of this section or that are approved under a research permit under section 8 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.878, on the effective date of this section.

(b) All native aquatic species, other than aquatic plants, that by the effective date of this section were, as live organisms, lawfully in commercial trade in this state. Within 1 year after the effective date of this section, the department of natural resources, in consultation with affected industries, shall determine which aquatic species qualify under this subdivision.

(c) All nonnative aquatic species, other than aquatic plants, that, by the effective date of this section, were, as live organisms, lawfully in wide commercial trade in this state for at least 5 years, if there is no evidence of the species causing harm to human health or natural, agricultural, or silvicultural resources in the Great Lakes region. For the purposes of this subdivision and subdivision (d), within 1 year after the effective date of this section, the department of natural resources, in consultation with affected industries, shall determine which aquatic species, other than aquatic plants, were, as live organisms, in commercial trade in this state by the effective date of this section and whether each of those species had, as live organisms, been in wide

commercial trade in this state for at least 5 years.

(d) All nonnative aquatic species, other than aquatic plants, that, by the effective date of this section, were, as live organisms, lawfully in commercial trade in this state, that do not meet the requirements of subdivision (c), but that are approved by the department of natural resources based on a risk assessment under subsection (2). Within 2 years after the effective date of this section, the department of natural resources shall perform the risk assessment and approve or disapprove the assessed species for listing as permitted aquatic species.

(e) All aquatic plants, native or nonnative, that, by the effective date of this section, were, as live organisms, lawfully in commercial trade in this state. Within 1 year after the effective date of this section, the department of agriculture and rural development, in consultation with affected industries including the horticulture industry, shall determine which aquatic plants qualify under this subdivision.

(2) To perform a risk assessment on an aquatic species other than an aquatic plant, the department of natural resources shall use the risk assessment aquatic protocol developed by the United States fish and wildlife service, aquatic fisheries and resources program. The natural resources commission shall periodically review and may modify or replace the assessment protocol by order consistent with the purposes of this part.

(3) To perform a risk assessment on an aquatic plant, the department of agriculture and rural development shall use the plant protection and quarantine (PPQ) weed risk assessment protocol developed by the United States department of agriculture's plant protection and quarantine, plant epidemiology, and risk analysis laboratory, Raleigh, North Carolina. Each aquatic plant cultivar, variety, or hybrid shall be assessed separately. The commission of agriculture and rural development shall periodically review and may modify or replace the assessment protocol by order consistent with the purposes of this part.

(4) If an aquatic species that was not previously a prohibited or restricted species under this part does not pass the risk assessment for permitted species under this section and is reviewed under section 41302(4)(e) and placed on the prohibited species list or restricted species list, any person involved in the commercialization or sale of an aquatic species that possesses live organisms of that prohibited or restricted species shall be compensated at fair market value by this state for the loss of that species product in the person's possession in this state when the species was placed on the prohibited species list or restricted species list.

(5) Aquatic species that on the effective date of this section are, as live organisms, not in commercial trade in this state or are unknown to or unanticipated by the relevant department may be added to the permitted species list upon evaluation using the risk assessment procedure described under subsection (2) or (3), as applicable. After the creation of the initial permitted species list, any person involved in the commercialization or sale of aquatic species may petition the relevant department to review and add a new aquatic species to the permitted species list for future commercialization and sale in this state. The petitioner has the burden of demonstrating that the species passes the risk assessment under subsection (2) or (3), as applicable. The petitioner shall provide information that is requested by the relevant department to perform the risk assessment. Any prior background materials generated as a result of a federal agency review and identified by the petitioner shall be considered by the department. The petitioner shall pay a reasonable fee that does not exceed the administrative costs for the relevant department to review the petitioned species. The relevant department may, but is not required to, review on its own initiative an aquatic species for placement on the permitted species list.

History: Add. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41303 Possession of live prohibited or restricted organism; prohibition; exceptions; notification of location where found; importing, selling, or offering to sell.

Sec. 41303. (1) Subject to subsection (2), a person shall not knowingly possess a live organism if the organism is a prohibited species or restricted species, except under 1 or more of the following circumstances:

(a) The person intends to present a specimen of the prohibited species or restricted species, for identification or similar purposes, to a person who is a certified applicator or registered applicator under part 83, to a public or private institution of higher education, or to the department of natural resources, the department of agriculture and rural development, or any other state, local, or federal agency with responsibility for the environment, natural resources, or agriculture.

(b) The person has been presented with a specimen of a prohibited species or restricted species for identification or similar purposes under subdivision (a).

(c) The person possesses the prohibited species or restricted species in conjunction with otherwise lawful activity to eradicate or control the prohibited species or restricted species.

(d) The possession is pursuant to a permit issued for education or research purposes by the relevant

department under section 41306 or, if the prohibited species or restricted species is a plant species or an insect other than a wiggler, by the United States department of agriculture.

(e) The species is an aquatic restricted species and the person possesses the species in compliance with an order under section 41302(6).

(2) A person described in subsection (1)(b) or (c) shall notify the department of natural resources, the department of agriculture and rural development, or the department of environmental quality if the prohibited species or restricted species was found at a location where it was not previously known to be present.

(3) Before initial establishment of the permitted aquatic species list, a person shall not import, sell, or offer to sell any live aquatic species unless the live aquatic species, by the effective date of the 2014 amendatory act that added this subsection, was lawfully in commercial trade in this state. After the initial establishment of the permitted aquatic species list, a person shall not import, sell, or offer to sell any live aquatic species not listed on the permitted aquatic species list.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 78, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41305 Introduction of prohibited or restricted species, or genetically engineered or nonnative bird, crustacean, fish, insect, mammal, or mollusk, or aquatic plant; prohibition; exceptions.

Sec. 41305. A person shall not introduce a prohibited species, a restricted species, a genetically engineered or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant unless the introduction is authorized by 1 of the following, as applicable:

(a) For a fish, by a permit issued by the department of natural resources under section 48735.

(b) For a plant or an insect other than a wiggler, by a permit issued by the department of agriculture and rural development under section 41306.

(c) For any other species, by a permit issued by the department of natural resources under section 41306.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 79, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41306 Permit; application; fee; granting or denying; revocation; modification; hearing; administration; enforcement.

Sec. 41306. (1) A person shall apply to the relevant department for a permit that section 41303 or 41305 describes as being issued under this section. The application shall be submitted on a form developed by the relevant department. The application shall be accompanied by a fee based on the cost of administering this part. The relevant department shall either grant an administratively complete application and issue a permit or deny the application.

(2) In determining whether to grant or deny an application for a permit for introduction of a genetically engineered organism required by section 41305, the relevant department shall consider whether any application for a federal permit or approval for the genetically engineered organism has been granted or denied.

(3) The relevant department may revoke or modify a permit it has issued under subsection (1) after providing an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) The relevant department shall administer and enforce this part. In addition, any peace officer may enforce the criminal provisions of this part.

History: Add. 2005, Act 79, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41307 Rules.

Sec. 41307. The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to implement this part.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004.

Popular name: Act 451

Popular name: NREPA

324.41309 Violation; penalties; suspension or revocation of permit or license; order; liability for damages to natural resources; exceptions.

Sec. 41309. (1) A person who violates section 41303(2) is subject to a civil fine of not more than \$100.00.

(2) A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a restricted species is subject to a civil fine of not more than \$5,000.00. A person who violates section 41303(1), or a condition of a permit issued under this part, with respect to a prohibited species is subject to a civil fine of not more than \$10,000.00.

(3) A person who violates section 41303(1) knowing the possession is unlawful or who willfully or in a grossly negligent manner violates a condition of a permit issued under this part is guilty as follows:

(a) For a violation involving a restricted species, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(b) For a violation involving a prohibited species that is not an aquatic species, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(c) For a violation involving a prohibited species that is an aquatic species, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$2,000.00 or more than \$100,000.00.

(4) A person who, with intent to damage natural, agricultural, or silvicultural resources or human health:

(a) Violates section 41303(1) with respect to a restricted species or possesses a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) Violates section 41303(1) with respect to a prohibited species or possesses a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is guilty of a felony and may be imprisoned for not more than 4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(5) A person who sells or offers to sell a restricted species is subject to a civil fine of not less than \$1,000.00 or more than \$10,000.00. A person who sells or offers to sell a prohibited species or who violates section 41303(3) is subject to a civil fine of not less than \$2,000.00 or more than \$20,000.00.

(6) A person who violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or a nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 6 months and shall be fined not less than \$500.00 or more than \$5,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(7) A person who violates section 41305 with respect to a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant and who has actual or constructive knowledge of the identity of the restricted species or that the organism, whether a restricted species or other bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, is nonnative is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than \$1,000.00 or more than \$10,000.00.

(8) A person who violates section 41305 with respect to a prohibited species that is not an aquatic species or with respect to a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant and who has actual or constructive knowledge of the identity of the prohibited species or that the bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant is genetically engineered, respectively, is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

(9) A person who violates section 41305 with respect to a prohibited species that is an aquatic species and who has actual or constructive knowledge of the identity of the prohibited species is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$2,000.00 or more than \$100,000.00.

(10) A person who violates section 41305 knowing the introduction is unlawful, is guilty as follows:

(a) For a violation involving a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$1,000.00 or more than \$250,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 2 years and shall be fined not less than \$2,000.00 or more than \$20,000.00.

4 years and shall be fined not less than \$2,000.00 or more than \$500,000.00.

(11) A person who, with intent to damage natural, agricultural, or silvicultural resources or human health, violates section 41305 is guilty as follows:

(a) For a violation involving a restricted species or nonnative bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 3 years and shall be fined not less than \$1,000.00 or more than \$500,000.00.

(b) For a violation involving a prohibited species or a genetically engineered bird, crustacean, fish, insect, mammal, mollusk, or aquatic plant, the person is guilty of a felony and may be imprisoned for not more than 5 years and shall be fined not less than \$2,000.00 or more than \$1,000,000.00.

(12) If a person commits a criminal violation of this part or a rule promulgated or permit issued under this part or knowingly commits a violation described in subsection (5) and if the violation involves a prohibited species that is an aquatic species, the court shall order that any permit or license issued to the person under part 473 or 487 be suspended for 1 year, and that the person is not eligible to be issued any permit or license under part 473 or 487 for 1 year. If the remaining term of an existing permit or license under part 473 or 487 is less than 1 year, the court shall order that the permit or license be revoked and that the person is not eligible to be issued any permit or license under part 473 or 487 for 1 year. For a second violation described in this subsection, the court shall order that any permit or license issued to the person under part 473 or 487 be revoked and that the person is permanently ineligible to be issued any permit or license under part 473 or 487. An order under this subsection is self-effectuating. The clerk of the court shall send a copy of the order to the department of natural resources.

(13) In addition to any other civil or criminal sanction imposed under this section, a person who violates this part is liable for any damages to natural resources resulting from the violation, including, but not limited to, costs incurred to prevent or minimize such damages.

(14) This part does not apply to activities authorized under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

History: Add. 2003, Act 270, Eff. Mar. 30, 2004;—Am. 2005, Act 76, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009;—Am. 2014, Act 541, Eff. Apr. 15, 2015.

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324.41310 Property used in criminal violation subject to seizure and forfeiture.

Sec. 41310. A vehicle, equipment, or other property used in a criminal violation of this part or a permit issued under this part involving a prohibited species that is an aquatic species is subject to seizure and forfeiture as provided in chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.

History: Add. 2014, Act 537, Eff. Apr. 15, 2015.

Popular name: Act 451

Popular name: NREPA

324.41311 Invasive species fund; creation; disposition of funds; money remaining in fund; expenditures; purposes.

Sec. 41311. (1) The invasive species fund is created within the state treasury.

(2) The department of natural resources and the department of agriculture shall forward to the state treasurer and the state treasurer shall deposit into the fund civil fines collected under section 41309 and permit fees collected under section 41306. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of natural resources and the department of agriculture shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) The administration of this part, consistent with section 41306(4).

(b) Public education about preventing the introduction of, controlling, or eradicating prohibited species, restricted species, and other nonnative species and genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, and mollusks.

History: Add. 2005, Act 80, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

Popular name: Act 451

Popular name: NREPA

324.41313 Providing information on website; requirements.

Sec. 41313. The department of natural resources and the department of agriculture shall each provide all of the following information on its website:

- (a) Information on the requirements of this part applicable to the public.
- (b) The penalties for violating the requirements of this part.
- (c) A list of prohibited species and restricted species along with a description and a photograph or drawing of each of those species.
- (d) Each annual report of the department under section 41323, for not less than 3 years after its issuance.

History: Add. 2005, Act 80, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

Popular name: Act 451

Popular name: NREPA

324.41321 Repealed. 2009, Act 51, Eff. Sept. 21, 2009.

Compiler's note: The repealed section pertained to the invasive species advisory council.

Popular name: Act 451

Popular name: NREPA

324.41323 Duties of department.

Sec. 41323. (1) The department of natural resources shall do all of the following:

(a) By March 1 of each year, submit to the governor and the legislature a report that makes recommendations on all of the following:

(i) Additions to or deletions from the classes of genetically engineered or nonnative organisms covered by this part.

(ii) The status of various prohibited species and other problematic invasive species in this state, including, but not limited to, a list of infested waterbodies by species.

(iii) Preventing the introduction of and controlling or eradicating invasive species or genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, or mollusks.

(iv) Restoration or remediation of habitats or species damaged by invasive species or genetically engineered organisms.

(v) Prioritizing efforts to prevent violations of and otherwise further the purposes of this part.

(vi) The specific areas of responsibility for various state departments under this part and the sharing of information on permits under this part among responsible state departments.

(vii) Educating citizens about their responsibilities under this part and their role in preventing the introduction of and controlling or eradicating prohibited species, restricted species, invasive species, and genetically engineered aquatic plants, birds, crustaceans, fish, insects, mammals, or mollusks.

(viii) Simplifying citizen access to state government for compliance with this part.

(ix) Legislation and funding to carry out the recommendations of the department of natural resources and otherwise further the purposes of this part.

(x) Other matters that the department of natural resources considers pertinent to the purposes of this part.

(b) Establish criteria for identifying waterbodies infested by prohibited species.

(c) Monitor and promote efforts to rescind the exemption under 40 CFR 122.3(a) for ballast water discharges.

(2) The department of natural resources shall carry out its reporting and other duties under this section in cooperation with the aquatic nuisance species council created under Executive Order No. 2002-21 and the department of agriculture.

History: Add. 2005, Act 75, Imd. Eff. July 19, 2005;—Am. 2009, Act 52, Eff. Sept. 21, 2009.

Popular name: Act 451

Popular name: NREPA

324.41325 Boat, boating equipment, or boat trailer with aquatic plant attached; placement in state waters prohibited; order to remove aquatic plants; notice; posting; violation as civil infraction; penalty; definitions.

Sec. 41325. (1) A person shall not place a boat, boating equipment, or boat trailer in the waters of this state if the boat, boating equipment, or boat trailer has an aquatic plant attached.

(2) A law enforcement officer may order the owner or operator of a boat, boating equipment, or boat trailer to remove aquatic plants from the boat, boating equipment, or boat trailer. The owner or operator shall obey

such an order.

(3) The department shall prepare a notice that contains a summary of subsections (1), (2), (4), (5), and (6) and shall make copies of the notice available to owners of public boating access sites. The department shall include the notice in relevant department publications and post the notice on its website.

(4) The owner of a public boating access site shall post and maintain the notice described in subsection (3).

(5) A person who violates subsection (1), (2), or (4) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

(6) As used in this section:

(a) "Aquatic plant" means a submergent, emergent, or floating-leaf plant or a fragment or seed thereof. Aquatic plant does not include wild rice (*Zizania aquatica*).

(b) "Boat" means a vessel as defined in section 80104, and "boating" has a corresponding meaning.

History: Add. 2009, Act 91, Imd. Eff. Sept. 15, 2009.

Popular name: Act 451

Compiler's note: NREPA